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Report on the activities of the Office of Internal Oversight Services

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Financing of the African Union-United Nations Hybrid Operation in Darfur

Audit of the use of extraordinary measures for the African Union-United Nations Hybrid Operation in Darfur

Report of the Office of Internal Oversight Services

"The extraordinary measures were not effective in facilitating the deployment of the African Union-United Nations Hybrid Operation in Darfur and exposed the United Nations to high financial and reputation risks"

Summary

Pursuant to General Assembly resolution 62/232 A, the Office of Internal Oversight Services (OIOS) conducted an audit of the use of extraordinary measures exceptionally authorized by the Secretary-General for the African Union-United Nations Hybrid Operation in Darfur (UNAMID) to allow flexibility in administrative policies and procedures to expedite and facilitate the deployment of the mission. The Secretary-General approved 17 measures, including six to attract civilian personnel and expedite their deployment to UNAMID, two to facilitate the deployment of military personnel and nine to enable the procurement of goods and services for the necessary support infrastructure.

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The objectives of the audit were: (a) to review the conditions that required the use of extraordinary measures for UNAMID and the justification supporting the measures; (b) to assess the adequacy and effectiveness of internal controls to mitigate risks associated with the use of the extraordinary measures and provide reasonable assurance that resources were safeguarded against loss, misuse and mismanagement; and (c) to assess whether the use of extraordinary measures achieved the expected outcomes in UNAMID. The audit was conducted within the period from February to May 2008. Comments made by the Department of Field Support and the Department of Management were taken into account in preparing the present report and are shown in italics.

Overall, OIOS determined that the extraordinary measures have had limited impact on the deployment of UNAMID and have exposed the United Nations to significant financial and reputation risks. *The Department of Field Support stated that the limited use of these extraordinary measures was the result of unexpected circumstances. Senior management took a decision to absorb additional risk on the basis of a careful assessment that this was less serious than the risk of failing to implement the mandate entrusted to the United Nations by the Security Council.*

The main findings are as follows:

- In the view of OIOS, some conditions in UNAMID appeared to have justified the Secretary-General's action to waive certain administrative requirements to enable the rapid deployment of military and civilian personnel and establish the support infrastructure for UNAMID. Nonetheless, OIOS is concerned that the granting of exceptions from rules and established procedures gives managers discretion to decide whether and to what extent controls should be applied.

- Not all of the approved measures were needed to achieve the operational goals. For example, managers have not used the flexibility granted by the Secretary-General to increase UNAMID's delegation of authority for procuring core requirements and to exempt proposed procurement awards from review by the UNAMID Local Committee on Contracts.

- Although the Secretary-General has previously approved exceptional measures for the rapid deployment of personnel and support during the expansion of the United Nations Interim Force in Lebanon and the United Nations Mission in the Sudan and the establishment of the United Nations Integrated Mission in Timor-Leste, there was no evaluation of the effectiveness of their use, which could have assisted UNAMID in exercising the extraordinary measures.

- Although all six extraordinary measures pertaining to human resources were used, they did not significantly contribute to expediting the recruitment of staff and their deployment to UNAMID. The late deployment of staff reduced the overall effectiveness and practical value of the other extraordinary measures. For example, owing to the lack of personnel, the execution of the sole-source contract for multifunction logistics services was delayed and the level of procurement activities was lower than expected.

- One extraordinary measure authorized by the Secretary-General was the award of a $250 million contract without competitive bidding to Pacific Architects and Engineers (PAE) for the provision of multifunction logistics services to UNAMID. Although entering into a non-competitive, sole-source contract was authorized in October 2007, the Controller had in principle approved the

selection of PAE as early as April 2007. In the view of OIOS, the ex post facto authorization by the Secretary-General to waive competition for the PAE contract does not remove the Secretariat's responsibility to address accountability for the high level of financial and reputation risks for the United Nations that the decision to enter into a sole-source contract with PAE has created. *The Department of Management stated that the major risk faced by the Secretariat in implementing the Security Council mandate for UNAMID was the [inability] to provide extensive facilities on the ground. The choice of a sole-source contract brought risks, but these were judged as less than those of failing to provide the required facilities. The Department of Field Support commented that it was assessed that the risk to the reputation of the United Nations failing to deploy the heavy support package units in a timely manner outweighed the risk of selecting PAE on a sole-source basis.* OIOS recognizes that it is management's responsibility to determine the level of acceptable risk. However, it is also their responsibility to adequately manage risk by establishing effective controls. In the opinion of OIOS, considering the high risks associated with entering into a sole-source contract, adequate mechanisms were not put in place to mitigate the related risks.

- Despite a protracted planning effort for UNAMID, there were delays in preparing the statement of work for the multifunction logistics services. This situation affected the rest of the procurement process, especially the evaluation of the PAE proposals by the Procurement Division and the review by the Headquarters Committee on Contracts of the proposed PAE contract award. In the opinion of OIOS, the Headquarters Committee on Contracts was pressured to expedite its recommendation, as the case was deliberated and concluded even though the process of negotiating the cost of the contract with PAE was still under way. *The Department of Management stated that the Procurement Division had informed the Headquarters Committee on Contracts that the prices could be further lowered by continuing the negotiations then under way, which eventually resulted in additional savings of $41 million.*

- UNAMID did not properly monitor the PAE contract. PAE task orders included charges totalling $4.3 million for administrative fees related to construction services during periods when there was no construction activity. Moreover, when the contract value was reduced by 40 per cent from the original $250 million for six months to $150 million for nine months because of the limited use of PAE's services, no effort was made by the Department of Field Support and the Procurement Division to negotiate a corresponding reduction in the overhead and administrative charges. *The Department of Management informed OIOS that negotiations with PAE were completed in September and October 2008 resulting in cost reductions of over $16 million.* There were also excessive charges for equipment and for catering and management services that were not delivered. For example, PAE's prices for equipment comparable to items under existing United Nations systems contracts were significantly higher, resulting in additional costs of $7 million to the United Nations. Neither the Procurement Division nor the Department of Field Support has prevented those losses from occurring.

- One of the extraordinary measures is the non-competitive bidding for a letter of assist to provide contract management services to assist UNAMID in managing the multifunction logistics support contract. An important output of this

contract is to build the United Nations internal capacity to manage large logistics contracts. The initial draft letter of assist issued by the Department of Field Support was for a one-year period with an option for a three-year extension, exceeding the authorized amount and the one-year extension period as initially presented to the Headquarters Committee on Contracts. *The Department of Field Support stated that it had now pursued a letter of assist for a period of one year with a one-year extension option.* Furthermore, based on the proposed terms of the letter of assist, OIOS estimated that savings of more than $6 million per year could be realized if monthly rates were negotiated on the basis of UNAMID's working hours instead of a 12-hour working day and a 26-day month, as proposed in the draft letter. *The Department of Management disagreed with the view of OIOS to renegotiate the monthly rates on a normal working month, stating that in start-up missions, staff typically work 12-hour days and on weekends.* OIOS maintains the view that while there may be some periods when extra hours are required, it is not practical or cost-effective to assume such high working hours to be sustained throughout a two-year period.

OIOS made a number of recommendations to address the serious weaknesses identified in the PAE contract and strengthen the internal control system for peacekeeping operations. As indicated in the comments of the Department of Field Support and management of the Department of Management on the present report, certain corrective action had been taken subsequent to the audit.

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I. Introduction

1. Pursuant to General Assembly resolution 62/232 A, the Office of Internal Oversight Services (OIOS) conducted an audit of the use of extraordinary measures for the African Union-United Nations Hybrid Operation in Darfur (UNAMID). The Secretary-General informed the General Assembly about the adoption of these extraordinary measures in a letter to the President of the General Assembly dated 2 October 2007 (A/62/379). The measures were intended to allow flexibility in administrative policies and procedures to expedite the deployment of military and civilian personnel to UNAMID and to establish the necessary support infrastructure required to facilitate the deployment of the mission. The table below lists the 17 extraordinary measures.

Table
Extraordinary measures authorized by the Secretary-General

Extraordinary measure	*Used*	*Expiration*
1. Reassignment of civilian personnel for key administrative positions	Yes	Not stated
2. Temporary assignment of civilian personnel and their replacement	Yes	Not stated
3. Expedited transition of African Union Mission in Sudan civilian personnel to UNAMID	Yes	Not stated
4. Reduction of the amount deducted from mission subsistence allowance for substandard and shared accommodation	Yes	Open ended
5. New mission subsistence allowance rate for Darfur	Yes	Open ended
6. Additional travel days for occasional recuperation break	Yes	Open ended
7. Deployment of troops prior to signing a memorandum of understanding	Yes	Not stated
8. Payment to troop-contributing countries on a monthly basis from October to December 2007	No	December 2007
9. Increase in the not-to-exceed amounts of United Nations Mission in the Sudan (UNMIS) contracts to support UNAMID	No	31 March 2008
10. Extension of existing systems contracts	Yes	31 March 2008
11. Increase of the delegation of authority in respect of UNAMID	No	31 March 2008
12. Increase in the delegation of authority for procuring UNAMID core requirements	No	31 March 2008
13. Use of a sole-source contract for logistic support	Yes	Not stated
14. Non-competitive bidding for letters of assist	Yes	Not stated
15. Sole-source contracts for selected requirements	No	Not stated
16. Exemption from Local Committee on Contracts procedures	No	1 June 2008
17. Redeployment of leased aircraft to UNAMID from other missions	Yes	Not stated

2. In November 2006, the African Union, the United Nations and the Government of the Sudan adopted and agreed upon the concept of a three-phase approach to the deployment of the peacekeeping operation in Darfur. These phases included the light

support package to the African Union Mission in Sudan (AMIS), the heavy support package and the hybrid operation.[1]

3. In line with this concept, the Security Council established UNAMID by its resolution 1769 (2007). Under the resolution, UNAMID would complete preparations to assume operational command authority over the light and heavy support packages by no later than 31 December 2007 and assume authority from AMIS, which had been operating in the Sudan since 2004. On 22 December 2007, the General Assembly approved UNAMID's budget of $1.28 billion for the financial year 1 July 2007 to 30 June 2008. UNAMID was to be comprised of up to 19,555 military personnel and an appropriate civilian component with up to 3,772 police officers and 19 formed police units with 140 personnel each. The United Nations Mission in the Sudan (UNMIS) provided administrative support to UNAMID between July and December 2007. Effective 1 January 2008, UNAMID assumed full authority from AMIS for the hybrid operation in Darfur with the already deployed 6,743 AMIS troops becoming United Nations troops as of that date.

4. The audit covered: (a) the process leading to the authorization of extraordinary measures for UNAMID; and (b) transactions related to the use of the extraordinary measures during the period October 2007 to April 2008. The audit methodology included reviews at Headquarters of documentation relating to the decision to authorize the use of the extraordinary measures, and operational processes and internal controls to mitigate the associated risks. OIOS conducted the audit at Headquarters and in UNAMID within the period from February to May 2008 and interviewed officials involved in the planning and implementation of the extraordinary measures.

II. Justification for the use of extraordinary measures

5. The Secretary-General, in his letter dated 2 October 2007 to the President of the General Assembly, stated that "despite best efforts to manage within existing modalities, to facilitate and support within the envisaged time frames the rapid deployment of military and civilian personnel and establish the necessary support infrastructure required in UNAMID, it is necessary for the Secretariat to exercise some flexibility in the application of administrative policies and procedures ... to efficiently and effectively respond to the demands placed upon it in implementing Security Council resolution 1769 (2007)" (A/62/379).

6. The application of flexibility in administrative procedures was not a new initiative. The Secretary-General had previously approved exceptional measures for the rapid deployment of personnel and support during the expansion of the United Nations Interim Force in Lebanon and UNMIS and the establishment of the United Nations Integrated Mission in Timor-Leste (see A/60/986 and A/61/598). However, there was no evaluation of the effectiveness of the use of extraordinary measures on expediting the deployment or expansion of those missions and lessons learned from those exercises were not available.

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[1] The light support package comprised equipment and personnel fully dedicated to support AMIS. The heavy support package comprised military, police and mission support personnel and equipment, as well as staff, to provide support to AMIS (see A/62/540). The hybrid operation was designed to implement all aspects of the Darfur Peace Agreement (see S/2007/307/Rev.1).

7. Considering the inhospitable and insecure environment, the lack of infrastructure in Darfur and the challenges associated with launching a joint United Nations mission with the African Union, together with the tight deadline for the mission's deployment set by the Security Council, greater challenges in deploying personnel and equipment to UNAMID were expected. To compound matters, the overall expansion of United Nations peacekeeping activities, the increasing demands and the high tempo of operations have had an effect on the ability of the United Nations to deploy logistical and administrative support in a timely manner.

8. Hence, the Department of Field Support, in close cooperation with the Department of Management, developed a proposal for extraordinary or flexibility measures in certain administrative processes for UNAMID to meet the deployment targets. The proposal was approved by the Under-Secretary-General for Management on 24 August 2007 and authorized by the Secretary-General on 2 October 2007. However, allowing administrative flexibility increases the vulnerability of the United Nations to fraud and abuse of authority, including inappropriate and ineffective use of financial, human and other resources, and thus requires monitoring and compensating controls to manage those risks. On 23 November 2007, the Under-Secretary-General for Internal Oversight Services expressed concern to the Secretary-General about allowing flexibility in the application of procedures in several areas and emphasized the need for adequate compensating controls and mechanisms to monitor their implementation.

9. In the opinion of OIOS, some conditions before and during the deployment of UNAMID appeared to have justified the Secretary-General's action to waive administrative requirements to enable the rapid deployment of military and civilian personnel and establish the support infrastructure for UNAMID, in order to meet the requirements and timelines set by the Security Council in its resolution 1769 (2007). However, as further discussed in the present report, there were weaknesses in the identification, authorization and implementation of the extraordinary measures.

10. As shown in the table above, not all of the approved measures were used. For example, in the area of procurement managers have not used the flexibility granted by the Secretary-General to increase UNAMID's delegation of authority for procuring core requirements and to exempt proposed procurement awards from review by the UNAMID Local Committee on Contracts. Moreover, the flexibility to deploy troops in advance of signed memorandums of understanding with troop-contributing countries was not exceptional, as it has been a force generation practice in the past. Nonetheless, OIOS stresses that when the Secretary-General grants managers the flexibility to be exempt from compliance with rules and established procedures, he gives them discretion to decide whether and to what extent normal controls should be applied.

III. Controls established to mitigate risks of loss, misuse and mismanagement of resources

11. As the Under-Secretary-General for Internal Oversight Services pointed out in her letter dated 23 November 2007 to the Secretary-General, the United Nations would face a higher risk of exposure to mismanagement and fraud as a result of the flexibility granted to UNAMID. When exemptions from established procedures are

granted, it is necessary to ensure that compensating control procedures are set up to protect the integrity of business processes.

12. No guidelines encompassing certain controls and monitoring mechanisms were prepared to provide assurance that the extraordinary measures would be used properly and effectively. Since measurable expected benefits had not been defined, it was difficult to assess the effectiveness of the use of the extraordinary measures. This also posed the risk of insufficient commitment to the measures by the staff implementing them and reduced the overall impact of the measures. Moreover, the duration of some measures was not established, resulting in various interpretations by the users. For example, while UNAMID considered that the extraordinary measure on temporary assignment of civilian personnel was applicable for one year, i.e., until 1 October 2008, the Department of Field Support informed the mission that the measure expired on 31 March 2008. Also, the inadequate attention given to the establishment of monitoring controls resulted in actual or potential losses, as discussed in the following paragraphs.

IV. Effectiveness of the extraordinary measures

A. Procurement

13. OIOS considers eight of the 17 extraordinary measures authorized as pertaining to the procurement function, i.e., measures 9 to 16 in the table above. Out of these, only three were used, namely, measure 10, extension of existing systems contracts; measure 13, sole-source contract for logistics; and measure 14, non-competitive bidding letters of assist.

1. Inadequate planning of logistical requirements

Contract arranged without detailed cost-benefit analysis

14. On 15 October 2007, the United Nations signed a sole-source multifunction logistics services contract valued at $250 million with Pacific Architects and Engineers (PAE) for a period of six months. In March 2008, the contract value was reduced to $150 million and the contract term extended to 14 July 2008 owing to a reduced volume of services to be provided.

15. Although entering into a non-competitive, sole-source contract was authorized by the Secretary-General as an extraordinary measure in October 2007, the decision to select PAE was in place much earlier. In April 2007, the Department of Peacekeeping Operations requested the Controller to approve a sole-source contract with PAE for camp construction and services for the heavy support package. The request was based on the assessment of the Department that PAE was the only contractor in Darfur capable of supporting the timely deployment of the mission. On 25 April 2007, the Controller agreed in principle to the sole-sourcing of the multifunction logistics services, noting the exigency of the requirements and stating that "despite the effort of the planning team of 36 professional and 7 temporary staff which have been in place since March 2006, ... there is no procurement alternative to engaging PAE on a sole-source basis through a direct United Nations contract". DFS did not perform a cost-benefit analysis to justify the use of a multifunction logistics contract, which OIOS considers as an outsourcing contract. General

Assembly resolution 55/232 on outsourcing practices requires, inter alia, that an analysis of the cost-effectiveness and efficiency of the proposed activities to be outsourced is performed.

16. *The Department of Field Support commented that the heavy support package was finally approved by a letter from the President of the Security Council only on 17 April 2007. At that stage, it was anticipated that the heavy support package units would start to be deployed in about two months (by June 2007) and the Department was under significant pressure from Member States to rapidly have in place appropriate support arrangements on the ground.*

17. *The Department of Field Support further clarified that in the absence of sufficiently qualified and available resources or the time to undertake logistic demands of the required magnitude, there was no option other than to seek resources under a multifunction service contract. Hence, the Department considered that a cost-benefit analysis could not be conducted because there was no other available capacity for such a comparison to be carried out.*

18. In the opinion of OIOS, with the information available to the Department of Field Support and the Department of Management as early as December 2006, when the Department of Peacekeeping Operations initially requested the award of the contract to PAE, there was an opportunity to plan and evaluate the cost-effectiveness of entering into a sole-source, multifunction logistics contract. This would have given a reliable basis for the development and issuance of the statement of work and the request for proposals, and would have provided some assurance on the reasonableness of PAE's offer. Instead, the United Nations was exposed to the risk of unreasonably high prices and unjustified overhead charges.

19. *The Department of Field Support stated that given the prevailing uncertainty which surrounded the deployment of the heavy support package and the complexity of requirements, the Department disagreed with the opinion of OIOS that there was sufficient information at hand in December 2006 to properly plan for and evaluate the cost-effectiveness of entering into a sole-source contract, nor did it consider sufficient information existed in December 2006 to develop and issue a statement of work with sufficient fidelity that would enable the Department of Management to commence a credible solicitation. As mentioned above, the Department of Field Support stated that a cost-benefit analysis could not be conducted.* OIOS reiterates that the Darfur planning team had been in place since March 2006 and that the Department of Field Support was fully aware of conditions in Darfur through UNMIS operations. Moreover, the Department did not document the reasons why a cost-benefit analysis, which is required by General Assembly resolution 55/232, was not made. OIOS maintains that there was a possibility to plan and conduct a cost-benefit analysis that could have been a useful basis to assess the reasonableness of PAE's offer.

20. OIOS is of the opinion that accountability should be determined for the failure to adequately plan the provision of the multifunction logistics services, an area of concern also raised by the Controller.

Delays in the preparation of a statement of work

21. The Department of Peacekeeping Operations and the Department of Field Support took seven months to prepare and finalize the statement of work for the

PAE contract. This delay affected the procurement process, because the Procurement Division was able to initiate negotiations with the vendor only in May 2007, after receiving a first draft of the statement of work in April 2007. The statement of work was later refined and the final version was presented to the Procurement Division on 13 July 2007. The contract was to become effective on 1 September 2007. Such a tight timeline for a complex, multifunction contract was not sufficient to allow for a meaningful procurement process.

22. According to the Department of Field Support, the detailed requirements were only finalized in April 2007 owing to the complexity of developing and consolidating detailed requirements for a single multifunction contract. OIOS recognizes the difficulties, but points out that with the adoption of Security Council resolution 1706 (2006),[2] which mandated that troops be deployed to Darfur by 1 January 2007, the Darfur planning team had been set up and had been working since March 2006. Therefore, in the opinion of OIOS, there was enough time to properly organize the planning process.

23. *The Department of Field Support stated that detailed planning for the deployment and support of the heavy support package during this period was challenged by delay and uncertainty. The Government of the Sudan withheld approval of the troop-contributing countries providing troops for the heavy support package until July 2007, and some of the capabilities within the heavy support package were not provided by Member States. Hence, it was extremely difficult for the Department to finalize a statement of work.*

Approval of the contract award to Pacific Architects and Engineers

24. The Controller signed the minutes of the Headquarters Committee on Contracts only on 11 October 2007, after (a) entering into a sole-source contract had been approved by the Secretary-General on 27 September 2007; (b) the Secretary-General had sent his letter of 2 October 2007 to the President of the General Assembly regarding the extraordinary measures; and (c) the Member States were briefed about the extraordinary measures, including the decision to award a sole-source contract to PAE. On 11 October 2007, the Controller sent a memorandum to the Deputy Secretary-General informing her that he was signing the minutes of the Headquarters Committee on Contracts, thereby authorizing the award of the sole-source contract to PAE, based on the Secretary-General's aforementioned action. These conditions indicate that the Secretary-General had taken responsibility for the award of the contract to PAE, which was subsequently included as part of the extraordinary measures.

Insufficient time for evaluation and review of the Pacific Architects and Engineers procurement case by the Headquarters Committee on Contracts

25. Insufficient time was given to the Headquarters Committee on Contracts to review the PAE procurement case. On 30 August 2007, the Procurement Division presented the case to the Committee, recommending the award of a six-month multifunction logistics contract to PAE for a not-to-exceed amount of $291 million

[2] On 31 August 2006, the Security Council, by its resolution 1706 (2006), approved the expansion of the mandate of UNMIS to the Darfur region with the deployment of 17,300 troops. However, the resolution could not be implemented owing to a lack of the Sudanese Government's consent at that time.

effective 1 September 2007. At this point, the Deputy Chairperson of the Committee informed the Procurement Division and the Department of Field Support that there was insufficient information for the Committee to make an informed recommendation on the procurement case. The Procurement Division explained that the vendor's proposal was not final, as negotiations on the rates and value of the contract were still in progress. The Division stressed, however, that time was of the essence and any delays in deciding on the case could have an adverse effect on the United Nations. On an exceptional basis, the Headquarters Committee on Contracts at its 31 August 2007 meeting reviewed the case without the complete information, in particular the negotiated amount of the contract, which is normally needed for proper deliberations.

26. The minutes pertaining to the 31 August 2007 meeting of the Headquarters Committee on Contracts were finalized on 10 September 2007 and the Controller approved the contract award on 11 October 2007. A review of the minutes showed that on 9 September 2007, the Procurement Division advised the Committee that the contract was still being negotiated and that the updated not-to-exceed amount was $250 million for a six-month period and $41 million for each of the two three-month optional extensions. Although the Committee noted that it was not normal practice to accept procurement cases that were still under negotiation with vendors, the Committee, noting the exigencies, agreed to make an exception to proceed with a review of the case as recommended by the Procurement Division and the Department of Field Support. In the opinion of OIOS this practice is unacceptable and the Headquarters Committee on Contracts process did not serve as an effective internal control. The Committee should not be pressured into reviewing and making recommendations on procurement cases without all the relevant information necessary to make an informed decision.

27. *The Department of Management stated that the reason for requesting an urgent consideration of the PAE case by the Headquarters Committee on Contracts was because the then existing contract between PAE and the United States Department of State was due to expire the day after the presentation to the Committee (31 August 2007). Therefore, had the PAE agreement with the United Nations not been confirmed, PAE was at risk of losing its legal status in the Sudan and consequently would have had to demobilize. This course of action would have significantly increased the costs of the United Nations and the lead time in mobilizing other construction capabilities in Darfur. The Committee was informed that prices could be further lowered by continuing the negotiations, which eventually resulted in additional savings of $41 million.* OIOS accepts that the timelines for the procurement process were tight. This was mainly caused by poor planning resulting in the delayed finalization of the statement of work, as already referred to in paragraphs 21 and 22.

28. The negotiations with PAE were finalized on 12 September 2007 with an agreed not-to-exceed amount of $250 million and the contract was signed on 15 October 2007.

29. Considering the complexity and magnitude of a multifunction logistics contract, insufficient lead times had been given to both the Procurement Division and the Headquarters Committee on Contracts to allow them to perform their respective functions effectively. While the vendor's selection without bidding was permitted under the Secretary-General's authorization of the relevant extraordinary

measure, awarding the contract in a non-competitive manner attracted negative publicity damaging the reputation of the United Nations. It also did not ensure that the United Nations obtained the best value for money in this particular procurement action.

2. Inadequate bid evaluation

30. The Procurement Division issued a request for a proposal to PAE on 16 July 2007, with a deadline for submission of a response by 15 August 2007. PAE submitted on 15 August a "rough order of magnitude" proposal presenting their initial estimate to allow continued discussions and refinement of the technical requirements of the United Nations. After negotiations in August and September 2007, PAE submitted a number of revised proposals, which included varying not-to-exceed estimates ranging between $333 million and $790 million for a one-year contract period.

31. According to the Procurement Division, PAE's proposals were not clear and contained numerous and substantial errors. The Division had to spend considerable time correcting calculation errors and inconsistencies it had identified. Moreover, in the view of OIOS, the Division did not sufficiently benchmark PAE's proposals with similar contracts to assess the reasonableness of PAE's offer. For example:

(a) There was no documentation showing that the electrical component, with the not-to-exceed amount of $48 million, was compared with any benchmark or standard to evaluate the contractor's proposed price. *The Department of Management commented that the comparison for the electrical component of the contract was carried out using the rates of the current electrical contractor to the United Nations.* During the audit, documentary evidence of this comparison, even though it was requested by OIOS, was not presented. *The Procurement Division subsequently provided additional documentation stating that the Department of Field Support had conducted benchmarking between the PAE proposal and the United Nations systems contract and that it was difficult to properly match the cost of items compared, as they did not include the same components.* OIOS, therefore, maintains that the benchmarking was inadequate;

(b) There was no benchmark for some high-value construction equipment, such as a rock crusher valued at $1.1 million per unit. *The Department of Management stated that while there was sufficient evidence in the contract file to demonstrate that benchmarking was carried out on at least 38 high-value construction equipment items, there was no direct evidence for the one example OIOS chose to provide in the report, i.e. the crusher. It should be noted that the rock crushers purchased by the Mission were essential in ensuring materials were available for infrastructure construction.* OIOS accepts that the Procurement Division evaluated price offers with comparable benchmarks for about 80 per cent of the high-value items. Nonetheless, certain high-value items totalling about $10 million were not evaluated. In the view of OIOS, considering this was a sole-source contract, all high-value items should have been assessed against a valid benchmark. Furthermore, OIOS found that the three crushers, which the Department of Management considered to be essential for construction works, had been delivered to UNAMID only in September 2008 and, as at 15 December 2008, remained unpacked in Nyala;

(c) There was no assessment of the price structure of each item, which included management reserves, overheads, profits and other costs. Moreover, overhead costs relating to the contractor's office in Washington, D.C., project management office in El Fasher and logistics operations base in Darfur were also included in the contract for managing and supervising the services under the contract. *The Department of Management stated that at the final stage of negotiations, PAE's profit had been reduced and they had agreed to remove a management reserve fee on all subcontracted services.* OIOS found that while PAE had agreed to reduce its management reserve, this was in exchange for taking out the liquidated damages provision from the contract. This may further expose the United Nations to financial, operational and other risks.

32. *The Department of Management also stated that extensive negotiations were carried out by a team comprised of members from the Procurement Division, the Department of Field Support, the Office of Legal Affairs and the Office of Programme Planning, Budget and Accounts, whereby the original PAE proposal of $790 million was eventually reduced by over half a billion dollars. The Department of Management also stated that there were more than 13,000 line items within PAE's proposal and, while a comparison for all line items would have been more than challenging, the Procurement Division had used many means at its disposal to carry out benchmarking.* While OIOS acknowledges the effort of the Department of Management to negotiate a cost reduction, about $270 million of this was attributed to a calculation error made by PAE in its proposal.

33. Furthermore, PAE prices for construction equipment were generally higher and, in some cases, more than twice the price offered in United Nations systems contracts for similar equipment. During the deliberations of the Headquarters Committee on Contracts on the PAE contract, the Procurement Division indicated that it would maximize the use of United Nations systems contracts to ensure that similar but lower-priced equipment available under those contracts was purchased. However, as explained in paragraph 37, this was not always done and, due to weaknesses in contract management, the United Nations was charged excessively high prices for equipment. In the opinion of OIOS, accountability for the inadequate evaluation of PAE's proposals should be addressed.

3. Weaknesses in the management of task orders

34. PAE executed the contract through task orders from UNAMID. As at 31 March 2008, UNAMID had issued task orders totalling $127 million. Task orders for the construction of camps ($70 million), a major contract component, were issued almost five months after signing the contract and the actual construction work did not start until April 2008. As a result of the delays in issuing task orders — the first construction task order request was issued on 13 February 2008 — PAE charges included administrative fees totalling $4.3 million relating to the logistics operations base for the period from 22 December 2007 to 12 February 2008 although no construction work had started until April 2008.

35. *The Department of Field Support stated that under the contract, PAE was not required to respond to UNAMID task requests in the absence of the payment of the administrative fees for services provided by the contractor's office in Washington, D.C., project management office in El Fasher and logistics operations base in Darfur. Therefore, the inference that PAE received payments during the period*

22 December 2007 to 12 February 2008 ostensibly for doing nothing is incorrect. OIOS reiterates that administrative fees estimated at $4.3 million relate to PAE's logistics operations base only, and as no construction task order requests had been issued during that period, the United Nations did not obtain value for the cost incurred.

36. According to the contract, PAE was to provide services in El Obeid, including the construction of a transit camp for the military and other facilities and supervision of these activities by the vendor's personnel in El Obeid. For this purpose, UNAMID issued task orders for the period from 22 December 2007 to 14 July 2008. However, UNAMID did not determine until March 2008 that no services in El Obeid would be required. Based on the calculations of OIOS, which were provided to UNAMID and the Department of Management during the audit, the administrative fees for the task orders raised for El Obeid for the period between 1 April and 14 July 2008 should be reduced by $313,416. *The Department of Management stated that the administrative fees for the logistics operations base in El Obeid were removed through negotiations held with PAE in September 2008. The Department of Field Support also stated that UNAMID had sought the recovery of the overcharges through deductions from PAE's unpaid invoices.*

37. UNAMID issued task orders to PAE for the procurement of equipment at prices higher than those in existing systems contracts, resulting in additional costs of $7 million to the United Nations. Even taking into consideration the additional freight cost, the large difference between the acquisition cost of equipment charged by PAE and the cost of similar equipment in existing systems contracts is not acceptable. For example, UNAMID ordered eighteen 500-kVA generators from PAE at a cost 2.7 times higher than the systems contract price for a similar unit. This purchase constituted $3 million of the total additional costs of $7 million (see annex for a summary of estimated financial implications).

38. *The Department of Management stated that the prices in systems contracts were for goods to be delivered in Brindisi, while the PAE prices were for on-site delivery. The Department also stated that the lead time for a systems contract was protracted. Any delay faced with regard to delivery of generators ordered from the systems contract would have had a detrimental effect on the overall deployment timelines mandated by the Security Council. Furthermore, there was a need to mitigate the risk element attached to ordering items from a third party and integrating them into another contractor's operation. Hence, the solution chosen took into account both price and the most time-efficient delivery methods.*

39. *The Department of Field Support also commented that while the systems contract might have enabled procurement of equipment at cheaper prices, the resulting inefficiencies in project delivery would have potentially cost the Organization considerably more and would most certainly have jeopardized the project delivery schedule. Accordingly, such procurement did not represent best value for money.*

40. OIOS is unable to accept these assertions because the price differences between the system contracts and the PAE contract were excessive. As indicated in paragraph 37, the PAE price for a 500-kVA generator was 2.7 times higher than the price under the United Nations systems contract. Moreover, the Procurement Division had assured the Headquarters Committee on Contracts that the use of systems contracts would be maximized. This had not been done. Furthermore,

according to the systems contract, the vendor had to deliver within 60 days of issuance of a purchase order. The task order, which was issued to PAE only in January 2008, had a deadline to supply between March and mid-July 2008. The Procurement Division could have purchased generators from the systems contract within the scheduled timelines and avoided excessive cost.

41. Since there was no fully operational contract management function in UNAMID from December 2007 to April 2008, in the opinion of OIOS the Department of Field Support should have provided the oversight needed to manage the task orders. Without such oversight, the United Nations continued to be exposed to financial losses resulting from the mismanagement of task orders. The Department should correct the weaknesses in the management of task orders and address accountability for losses.

4. Overhead and administrative charges not commensurate with the adjusted contract value

42. The PAE contract has eight engineering-related services and 23 categories of other services. Due to inactivity in UNAMID, the number and value of task orders was low. Only one of the 23 other services was used. As a result, in April 2008, the not-to-exceed amount was reduced from $250 million for a six-month period to $150 million for a nine-month period. However, while the value of the contract had been reduced by 40 per cent, the proposed staffing strength of the contractor's offices, namely the Africa project management office in Washington, D.C., the project management office in El Fasher and the logistics operations base in Darfur, involving a total cost of $35 million, remained unchanged.

43. *The Department of Field Support indicated that the staffing cost was a fixed cost and even though no work had been done, these costs were allowable.* Considering such a significant reduction in the volume of work and dollar value of the contract, OIOS does not accept the argument that overhead costs related to the contractor's administrative staff and support cannot be adjusted to an appropriate level. OIOS notes that the Procurement Division negotiated with PAE for a reduction of the overhead charges.

5. Charges for catering and management services not performed

44. In January 2008, UNAMID issued two task orders to PAE for catering services at El Fasher and Nyala effective 1 April 2008. The monthly fixed fee included the cost of management services and the maintenance of catering equipment. Although no catering services had been delivered to UNAMID from January to March 2008, the task order included charges of $248,166 for the maintenance of catering equipment for the period.

45. *The Department of Field Support stated that an adjustment had been made to the charges for management services and maintenance of catering equipment reducing the net amount payable for these services by $100,758.*

46. The contract included a cost for each service performed by PAE plus an additional charge for management services. The management service charge related to the cost of PAE personnel required to manage cleaning, laundry, pest control, ground maintenance and refuse disposal services. OIOS found that PAE had not

provided any of these services. However, task orders included charges of $475,926 for management services for six months from February 2008.

47. In the opinion of OIOS, the mission should not pay these charges as none of the related services had been delivered.

6. Delays in establishing the contract management function

48. The high value and complexity of the multifunction logistics contract required a properly established contract management function. In December 2006, the Department of Peacekeeping Operations, when it requested the Controller to approve a sole-source contract with PAE, raised the need for outsourcing the contract management function to supervise all aspects of the PAE contract. The Department explained that the United Nations would not be able to recruit and form a technically qualified contract supervision and quality management team within the required time frames.

49. OIOS is concerned that, as at April 2008, there was still no fully functioning in-house or outsourced capacity to manage the PAE contract. The approved UNAMID budget for the financial year 2007/2008 provided for 31 posts for the Contract Management Section; however, UNAMID had filled only three of the positions by the end of April 2008. Also, although the Department of Peacekeeping Operations had already identified the need for an outsourced contract management function as early as December 2006 and related procurement action had started in May 2007, as at September 2008 the letter of assist was still not finalized. The delay in setting up a fully operational contract management function is not justifiable.

50. *The Department of Field Support stated that the UNAMID budget was not approved until 22 December 2007 and the recruitment effort was hampered in a number of ways: short-listed staff declining to be interviewed; selected staff declining appointment; and extreme delays in travelling of appointed staff to the mission. The Department further commented that as at 31 October 2008, UNAMID's in-house contract management capacity was made up of 16 staff members.* OIOS reiterates that high-value, multifunction contracts should not be entered into without ensuring that a proper contract management function is in place.

7. Issuance of letter of assist exceeding the authorized amount and contract renewal period

51. In April 2008, the Department of Field Support issued a draft letter of assist to the Government of Spain for the provision of contract management services, in particular to assist UNAMID in managing the multifunction logistics support, food rations and fuel contracts. The services were to be provided by Ingeniería de Sistemas para la Defensa de España (ISDEFE), a company owned by the Government of Spain.

52. The letter of assist was arranged as an extraordinary measure, after the failure of two commercial bidding exercises conducted by the Procurement Division in 2007. In May 2007, the Division solicited proposals for contract management and construction services for four peacekeeping missions, including UNAMID. It received one proposal, which was found to be technically non-compliant. The Division then issued another request for proposals in August 2007 covering UNAMID only and received two proposals. Only one proposal was found to be

technically compliant, but the vendor had a joint venture with PAE, which would have created a conflict of interest.

53. In October 2007, the Department of Field Support approached the Government of Spain for the services and negotiations ensued. In February 2008, the Department of Management and the Department of Field Support submitted the letter of assist case to the Headquarters Committee on Contracts, recommending the contract award to the Government of Spain for one year with an option to extend for another year in a total not-to-exceed amount of €27.4 million (equivalent to $40.5 million). The Committee expressed concern at the inappropriateness of outsourcing a core function of the United Nations and an unclear statement of work. Therefore, the Committee unanimously recommended that the letter of assist should not be entered into and that the Procurement Division and the Department of Field Support should seek a commercial solution. However, the Controller, while noting the concerns of the Committee, did not accept its recommendation. Considering the financial risks associated with the lack of proper contract management in UNAMID, and because the contracts for multifunction logistics support, food rations and fuel had a combined value of approximately $1 billion, the Controller authorized the Department of Field Support to continue its consultations with the Government of Spain, with a view to securing the letter of assist for the required services under the terms recommended in the presentation to the Headquarters Committee on Contracts.

54. The Department of Field Support issued the draft letter of assist for one year with an option to extend for a period of up to three years with a total not-to-exceed amount of $85 million. This exceeded the authorized not-to-exceed amount of $40.5 million for one year and the one-year optional renewal period, as initially presented to the Headquarters Committee on Contracts. Subsequent to the audit, *the Department of Field Support stated that a letter of assist for one year with a one-year option had now been pursued.* OIOS acknowledges that the Department of Field Support had made corrections to the draft letter of assist capping the not-to-exceed amount at $40.5 million.

8. Excessive cost of contract management services

55. A review of the terms and conditions of the letter of assist showed that the cost of deploying ISDEFE's personnel during the first year would total €10 million (equivalent to $14.8 million). ISDEFE will deploy 24 consultants in Darfur, 3 staff in its project management office in Madrid and 2 staff in its country management office in Darfur. However, the average monthly fee of $57,000 for each of the 24 consultants under the letter of assist was based on an hourly rate for a 12-hour working day and a 26-day month for each consultant. Calculations made by OIOS show that the United Nations could save more than €4 million (equivalent to $6.2 million) per year if the rate is negotiated on the basis of UNAMID's working hours, i.e., an eight-hour working day and a 22-day month.

56. *The Department of Field Support stated that it strongly believed that reducing the quantum of the consultants' work to the levels suggested by OIOS was not in accordance with normally accepted commercial practice. The Department further stated that in a start-up mission, it was not unusual for United Nations employees to typically undertake 12-hour days and be required to work on the weekends.* OIOS maintains the view that while there may be some periods when extra hours are

required, it is not practical or cost-effective to assume that such high working hours will be sustained throughout a two-year period.

57. As at September 2008, the outsourcing arrangement had still not been finalized. *The Department of Management informed OIOS that the letter of assist with the Government of Spain was signed in December 2008.*

9. Extension of existing systems contracts

58. The Procurement Division extended one systems contract using the related exceptional measure by the deadline of 31 March 2008. OIOS has no further observations on the use of this measure.

10. Lack of in-house expertise to arrange multifunction service contracts

59. The Procurement Division does not have adequate expertise in arranging large multifunction logistics service contracts. In arranging the contract with PAE, the Division used three procurement officers from the Maintenance and Supply Agency of the North Atlantic Treaty Organization under a memorandum of understanding for a six-month period. OIOS considers this service to be a core function of the United Nations and there is a need to develop the Division's own capacity rather than relying on outside providers for arranging multifunction logistics service contracts.

11. Procurement measures not used

60. As shown in the table above, measures 9, 11, 12, 15 and 16 had not been used. Officials of the Department of Field Support and UNAMID indicated that they considered the extraordinary measures as additional and not mandatory tools, and that they would generally use normal procedures. Therefore, some of the extraordinary measures would only be used if needed. As stated in paragraph 10 above, OIOS is concerned that these exceptions were actually not needed in most cases. This condition gives managers discretion to decide whether and to what extent normal controls should be applied and thus undermines the existing internal control system.

B. Human resources management

61. Although all six extraordinary measures pertaining to human resources management were used, they did not significantly expedite the recruitment of staff for deployment to UNAMID. This situation suggests the need for the United Nations to reassess its strategy in attracting both external and internal candidates to take up peacekeeping posts in the field, such as by conducting a survey of the real needs and concerns of staff and the conditions necessary for staff to accept job offers, particularly at extreme hardship duty stations. *The Department of Field Support informed OIOS that, in conjunction with the Department of Management, it had already taken a number of initiatives to better manage the recruitment and staffing process including: the introduction of human resources action plans to field missions; strengthening the ties between succession planning, performance management and career mobility; and outreach initiatives to attract qualified candidates for peace operations.*

1. Limited effect of extraordinary measures on the timeliness of staff deployment

62. The extraordinary measure concerning the immediate reassignment of civilian personnel to key administrative positions without advertising the post aimed to expedite the recruitment and deployment of staff to UNAMID. However, the Department of Field Support and UNAMID did not deploy key personnel in a timely manner. As at 31 March 2008, 13 (39 per cent) of the 33 key administrative positions (at the P-5 level and higher) and 23 (59 per cent) of the 39 key substantive positions had not been filled. Also, it took months after the start of the hybrid operation in Darfur for some of the key managers to arrive at the mission.

63. Even though the sole-source contract with PAE had been in force for six months, the Chief Engineer came on board only in late February 2008 and the Chief of the Project Management Office arrived in the middle of April 2008. These positions were critical for the execution of the PAE contract. UNAMID explained that it experienced difficulties in attracting and recruiting experienced staff because of the harsh living and security conditions in Darfur. As at 12 May 2008, 41 selected international staff had declined offers of appointment with UNAMID.

64. *According to the Department of Field Support, as at 12 November 2008, 50 (69 per cent) critical posts at the P-5 level or higher were encumbered, 26 in the support component and 24 in the substantive offices.*

65. The extraordinary measure for the temporary duty assignment of civilian personnel was to enable the releasing mission to recruit and train new staff to replace the staff who would be on temporary duty in UNAMID. However, although the extraordinary measure allowed staff to be on temporary duty for up to one year, the Field Personnel Division of the Department of Field Support did not communicate this provision to all releasing missions. An OIOS survey indicated that out of 12 missions surveyed, 8 were not aware that staff on temporary duty to UNAMID could be deployed beyond 90 days and that they could recruit temporary replacements for the staff on deployment. Consequently, just two releasing missions hired temporary replacements. Even in cases where the releasing missions were aware that they could hire temporary replacements for staff members sent to UNAMID on temporary duty, they did not hire replacements since the request to send staff to UNAMID was for a very short period (mostly 90 days) with no indication that the temporary service would be extended. Moreover, in April 2008, the Department of Field Support communicated to UNAMID that this measure had expired on 31 March 2008, although, in the opinion of OIOS there was no basis for such an interpretation. *The Department of Field Support stated that it further consulted with UNAMID and concluded that it was in the mission's best interest to continue the extraordinary measure of placing staff members beyond 90 days. As a control measure, the Department had required UNAMID to specify the duration of the temporary duty not to exceed 12 months.*

2. Limited experience of staff on temporary duty

66. The purpose of recruiting civilian personnel on temporary duty is to provide experienced and qualified staff to the receiving mission to meet its urgent requirements during a start-up or expansion phase. OIOS found that 71 per cent of personnel recruited on temporary duty in UNAMID were national staff performing at levels higher than their positions in the releasing missions. The Department of Field Support did not set criteria on experience and expertise required for staff

selected for temporary duty. *Subsequent to the audit, the Department of Field Support stated that it had provided guidance in this regard in correspondence dated 28 August 2008 addressed to all missions.*

67. Moreover, the average time taken for deploying staff on temporary duty was 39 days for international and 58 days for national staff. Although the Department of Field Support did not set a specific benchmark on the deployment of such staff, in the opinion of OIOS the temporary duty was meant to be immediate and therefore the time it took to deploy staff was excessive.

68. Because of the lengthy process in deploying temporary duty staff to UNAMID and their limited experience in performing at the required levels, the mission did not fully benefit from this extraordinary measure.

3. Delayed reference checks of personnel absorbed from the African Union Mission in the Sudan

69. UNAMID used the expedited transition or recruitment of AMIS civilian personnel to mission posts as an extraordinary measure to facilitate staff deployment. As at 31 March 2008, out of 109 candidates from AMIS that were initially pre-qualified by UNAMID, 53 had been recruited. Of these, UNAMID indicated that it had conducted only limited reference checks for 17 staff. The lack of reference checks exposed UNAMID to a risk of hiring staff that did not have the required experience. *The Department of Field Support commented that although reference checks were initiated, UNAMID experienced difficulties in getting timely responses from employers and educational establishments. The mission has forwarded the list of former AMIS staff for whom no reference check has been conducted to the Reference Check Unit of the United Nations Logistics Base in Brindisi with a view to prioritizing them.*

4. Accommodation-provided mission subsistence allowance and new mission subsistence allowance rate for Darfur

70. One of the extraordinary measures concerning human resources management allowed for the use of accommodation-provided mission subsistence allowance. Accordingly, the Department of Management amended the policy on mission subsistence allowance allowing for a deduction of 25 per cent, against the norm of 50 per cent, for substandard and shared accommodation. The formalization of the revised policies took an excessive amount of time. On 21 February 2008, UNAMID requested the Department of Field Support to approve the required criteria, which was more than a month after the related policy was issued in January 2008. While the delay in approving this policy precluded, to some extent, its timely application and notification to staff, the overall effect of this extraordinary measure was positive in attracting personnel for UNAMID.

71. Another extraordinary measure involved the establishment of a new mission subsistence allowance rate for Darfur. Accordingly, the Office of Human Resources Management established a new mission subsistence allowance rate for Darfur effective 1 March 2008 by increasing the rate from $116 to $143 per day. OIOS found that this measure was used effectively.

5. Additional travel days for occasional recuperation break

72. UNAMID provided the staff with two additional days for their travel on occasional recuperation break. However, UNAMID did not issue administrative instructions to amend the existing policy. There is a need to develop an amended policy on occasional recuperation break to avoid arbitrary application of the provision concerning travel time. *The Department of Field Support stated that UNAMID had now issued an information circular pertaining to the two additional days for travel on occasional recuperation break.*

6. Inadequate staffing of the tiger team

73. The Department of Field Support introduced the use of ad hoc "tiger teams" to augment the capacity of missions to recruit international staff. Presently, there are tiger teams in three other missions. The use of the UNAMID tiger team was not an extraordinary measure, but OIOS is discussing this issue in the present report because of the impact of staff recruitment on the deployment of UNAMID.

74. After the approval on 22 December 2007 of the UNAMID budget for the financial year 1 July 2007 to 30 June 2008, there was more pressure to urgently recruit staff. The UNAMID tiger team had been operational since early 2007. However, the number of tiger team staff responsible for recruiting international staff was reduced from 14 to 11 in January 2008 and from 11 to 8 in April 2008 because departing staff were not replaced. Considering the high vacancy rate in UNAMID, in the opinion of OIOS there is a continued need to augment UNAMID's recruitment efforts until the vacancy rate has decreased to an acceptable level. *The Department of Field Support commented that the tiger team's strength had been increased to 19 members.*

C. Extraordinary measures for other areas

75. The Secretary-General authorized an extraordinary measure to facilitate troop deployment and logistical support. Although the United Nations normally reimburses troop-contributing countries on a quarterly basis for deployed troops, the extraordinary measure allowed the reimbursement of troop costs to troop-contributing countries on a monthly basis for the period from October to December 2007. However, the United Nations did not reimburse the AMIS troop-contributing countries on a monthly basis for this period. The payment was made in March 2008, as UNAMID had not submitted certified troop strength reports in a timely manner. As a result, there was no benefit from this measure.

76. The extraordinary measure concerning troop deployment to UNAMID allowed troop-contributing countries to deploy troops in advance of a signed memorandum of understanding based on broad agreements reached by the United Nations and troop-contributing countries on the composition of the force and the conditions of sustainment on the ground. OIOS did not find this measure to be an extraordinary one because it had been a normal force generation practice to deploy troops even before the formal signing of a memorandum of understanding.

77. The extraordinary measure on logistics support concerning the redeployment of leased aircraft to UNAMID from other missions was effectively implemented.

V. Recommendations

Recommendation 1

78. The Secretary-General, when authorizing flexibility measures in the application of administrative rules, should ensure that sufficient governance mechanisms are in place to properly identify and mitigate financial and reputation risks to the United Nations.

79. *The Department of Management stated that caution was exercised when authorizing flexibility measures in the application of administrative rules. The Executive Office of the Secretary-General stated that it had no further comments to those submitted by the Department of Management and the Department of Field Support.* OIOS stresses that necessary compensating controls need to be established to manage the risks arising from the use of extraordinary measures. Also, before such measures are authorized, there should be proper documentation of the justification for their use.

Recommendation 2

80. The Department of Management should ensure that, when flexibility measures in the application of administrative rules are exceptionally introduced to expedite the deployment of new missions: (a) a formal risk assessment is performed to analyse the circumstances that warrant the use of extraordinary measures and to identify the specific administrative measures actually needed to address such circumstances; (b) clear guidelines are communicated to all concerned offices and monitoring mechanisms are established so that risks associated with the use of extraordinary measures are properly identified and monitored; and (c) measurable expected benefits are clearly defined and communicated to all concerned offices to assess whether targets set for the application of extraordinary measures are met.

81. *The Department of Management did not accept recommendation 2, stating that a thorough review of the proposed extraordinary measures had been performed prior to a recommendation for their approval. The risk analysis developed by OIOS is seen as a continuous exercise or process, in which the Procurement Division and other stakeholders are engaged, on a regular basis, for any significant acquisition projects driven by high costs, complexity or an abbreviated timeline. The Department of Management further stated that a formal risk assessment mechanism would only be possible once the enterprise risk-management system was fully implemented.* The Department of Management did not provide any comments on proposed action with regard to the development of guidelines and monitoring mechanisms on the use of extraordinary measures, or the expected benefits that should result therefrom. OIOS reiterates recommendation 2, which is critical for the effective implementation and future use of extraordinary measures.

Recommendation 3

82. The Department of Field Support, in coordination with the Department of Management, should address accountability for the failure to adequately plan for the provision of multifunction logistics services to UNAMID and the decision to enter into a sole-source contract with PAE.

83. *The Department of Field Support and the Department of Management did not accept recommendation 3. The Department of Field Support stated that it had not failed to adequately plan for the provision of multifunction logistics services to UNAMID. The Department of Management stated that planning for the provision of services fell under the responsibility of a requisitioning office. The Department of Management also stated that the decision to enter into a sole-source contract was thoroughly reviewed at all levels of the Secretariat and represented the best available option under the circumstances.* OIOS reiterates recommendation 3, since the audit demonstrated that the planning process for the provision of multifunction logistics services to UNAMID was flawed.

Recommendation 4

84. The Department of Field Support should properly plan and evaluate any decision to enter into complex multifunction service contracts by conducting a comprehensive cost-benefit analysis to ensure that the United Nations obtains the best value for money when entering into such contracts.

85. *The Department of Field Support did not accept recommendation 4, stating that in circumstances where the availability of alternative options is non-existent and lead times are short, the performance of a comprehensive cost-benefit analysis is neither practicable nor valuable.* The statement of the Department of Field Support contradicts General Assembly resolution 55/232, which requires that an analysis of the cost-effectiveness and efficiency of activities to be outsourced is performed. OIOS, therefore, reiterates recommendation 4.

Recommendation 5

86. The Department of Management should address accountability for the weaknesses in the procurement of the multifunction logistics services and the administration of the PAE contract, which have resulted in substantial actual and potential losses.

87. *The Department of Management did not accept recommendation 5, stating that the Procurement Division had: (a) through negotiations with PAE reduced significantly the overall cost of the contract; (b) conducted benchmarking to the extent possible for key elements of the contract; and (c) reviewed 13,000 line items of the PAE proposal to ensure reasonableness of prices.* While OIOS acknowledges the efforts made by the Procurement Division, the audit identified serious shortcomings in the procurement process and contract administration which require that accountability is addressed for losses incurred. OIOS reiterates recommendation 5.

Recommendation 6

88. The Department of Management should make every effort to recover the excessive charges billed by PAE and avoid losses in the future.

89. *The Department of Management accepted recommendation 6, stating that it had recovered excess charges from PAE through a reduction of $16 million from the administrative fees.*

Recommendation 7

90. The Department of Management should develop in-house expertise on arranging multifunction logistics services to ensure that the procurement of such services in the future is handled effectively.

91. *The Department of Management accepted recommendation 7, stating that it would seek additional resources from the General Assembly to increase its capacity for procurement of multifunction logistics services.*

Recommendation 8

92. The Department of Field Support should ensure that UNAMID's in-house contract management capacity is built within a reasonable time frame in order to develop the expertise of the United Nations in the management of complex, multifunction logistics contracts.

93. *The Department of Field Support accepted recommendation 8, stating that as at 31 October 2008, UNAMID's in-house contract management capacity had increased to 16 staff.*

Recommendation 9

94. The Department of Management should amend the draft letter of assist with the Government of Spain for the provision of contract management services in UNAMID to conform to the normal UNAMID working hours and achieve substantial savings.

95. *The Department of Management did not accept recommendation 9, stating that, in practice, start-up missions have longer than normal working hours. There was a need for the Government of Spain to provide 26 days of productivity per month, irrespective of sick leave, annual leave and holidays.* In the opinion of OIOS, while there may be some periods when extra hours are required, it is not practical or cost-effective to assume that the working hours throughout a two-year period will be 12 hours per day for 26 days every month. OIOS reiterates recommendation 9.

Recommendation 10

96. The Department of Field Support should define the criteria for required experience to guide the selection of qualified personnel for temporary duty assignment and timelines within which to deploy them.

97. *The Department of Field Support accepted recommendation 10, stating that it had been implemented.*

Recommendation 11

98. The Department of Field Support should ensure that reference checks are performed and completed on a priority basis for all AMIS staff absorbed by UNAMID.

99. *The Department of Field Support accepted recommendation 11, stating that UNAMID had forwarded the list of former AMIS staff for whom no reference check*

had been conducted to the Reference Check Unit of the United Nations Logistics Base in Brindisi. Their reference checks will be prioritized.

Recommendation 12

100. The Department of Field Support should ensure that the tiger team established to facilitate the recruitment of staff for UNAMID is strengthened so that efforts to fill vacancies in the mission are sustained until such time as the staffing has reached an acceptable level.

101. *The Department of Field Support accepted recommendation 12, stating that currently, the tiger team for UNAMID had 19 members. The significant increase in the team will expedite the urgent requirement to fill vacant positions and will strengthen UNAMID's recruitment efforts.*

(*Signed*) Inga-Britt **Ahlenius**
Under-Secretary-General for Internal Oversight Services

Annex

Summary of estimated financial implications of deficiencies noted

Paragraph No.[a]	*Description*	*Amount (United States dollars)*
Pacific Architects and Engineers		
37	Excessive equipment costs	7 000 000
35	Administrative fees charged to UNAMID when there was no actual construction work	4 300 000[b]
44, 46	Charges for catering ($248,166) and management ($475,926) services not performed	724 092[b]
36	Task orders for services for El Obeid that were not needed	313 416[b]
Subtotal		**12 337 508**
Ingeniería de Sistemas para la Defensa de España		
55	Inflated contract management fees	6 200 000
Subtotal		**6 200 000**
Total		**18 537 508**

[a] In main body of the report.

[b] On 2 January 2009, the Department of Management informed OIOS that these costs had all been recovered either directly or through the process of negotiations.

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Report on the activities of the Office of Internal Oversight Services

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Financing of the African Union-United Nations Hybrid Operation in Darfur

Report of the Office of Internal Oversight Services on the audit of the use of extraordinary measures for the African Union-United Nations Hybrid Operation in Darfur

Note by the Secretary-General

Summary

Pursuant to General Assembly resolution 62/232 A, the Office of Internal Oversight Services (OIOS) conducted an audit on the use of extraordinary measures exceptionally authorized by the Secretary-General for the African Union-United Nations Hybrid Operation in Darfur (UNAMID).

The present note provides comments and clarifications on the information contained in the audit report elaborated by OIOS for the consideration of the General Assembly (A/63/668). It is important to note that the major risk faced by the Secretariat in implementing the Security Council mandate for UNAMID was that failure to provide extensive facilities on the ground would have caused the mission to fail. The choice of a sole-source contract solution brought within it risks, but these were judged less onerous than the risk of failing to provide facilities.

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General comments

1. At the outset the Secretary-General would like to emphasize two important issues. First, extreme caution has been exercised in the authorization and use of flexibility measures in the application of administrative rules. Secondly, all activities implemented under the extraordinary measures in the African Union-United Nations Hybrid Operation in Darfur (UNAMID) were in compliance with United Nations regulations, rules and procedures and contributed to the better functioning of this operation.

2. It is also important to note that the major risk faced by the Secretariat in implementing the Security Council mandate for UNAMID was that failure to provide extensive facilities on the ground would cause the mission to fail. The choice of a sole-source contract solution brought with it risks, but these were judged less onerous than the risk of failing to provide facilities without which the Security Council mandate would remain unimplemented. The Organization chose to mitigate various risks related to the disruption in supply chain by building redundancies and planning for the "worst case scenarios", which were the underlying premise of the contract.

3. The estimated financial implications of deficiencies included in the annex of the Office of Internal Oversight Services (OIOS) report have not been documented and, in most cases, have been and are contested, as shown in the subsequent paragraphs of the present note.

Comments on the summary

4. In regards to the high level of financial and reputational risks that the decision to enter into a sole-source contract created, the Secretary-General would like to clarify that these risks must be weighed against the more obvious risks of not having fulfilled the Security Council's mandate in the timely deployment of a peacekeeping mission. Had the United Nations not been able to use the contractual services, the consequences could have been worse. The selected contractor had been operating in Darfur since 2004 following a competitive solicitation exercise carried out by a Member State, and it was considered to be the best solution among the various options available to the Organization. The Secretary-General also considers that the controls in place were adequate within established regulations and rules to ensure full compliance with the terms agreed upon in the contract.

5. Concerning the point raised that the Headquarters Committee on Contracts was pressured to expedite its recommendation, even though the process of negotiating the cost of the contract was still ongoing, the Secretary-General would like to clarify that an explanation was given to the Committee, as reflected in the minutes of the Committee, that prices could be further lowered by continuing the negotiations process for an additional week. These negotiations in fact resulted in material savings to the Organization amounting to US$ 41 million.

6. The OIOS report also claims that no effort was made by the Department of Field Support and the Procurement Division to negotiate a corresponding reduction in the overhead/administrative charges. In this respect, it should be noted that, as indicated to OIOS at the time of the audit, the Procurement Division planned to negotiate a reduction in the overhead and administrative charges. These negotiations

were completed in September and October 2008 and resulted in further material cost reductions in excess of $16 million.

7. In regards to the statement of OIOS that the initial draft letter of assist issued by the Department of Field Support was for a one-year period with option for a three-year extension, exceeding the authorized amount and extension period, as initially presented to the Headquarters Committee on Contracts, the Secretary-General wishes to clarify that this observation is based on drafts that were being discussed among the parties. In the end, the letter of assist was only issued for a one-year period, with an option for a one-year extension as authorized by the Committee.

8. The OIOS report also states that savings of more than $6 million per year could be realized if monthly rates were negotiated on the basis of UNAMID's working hours instead of a 12-hour working day and a 26-day month, as proposed in the draft letter of assist. In this respect, the Secretary-General would like to clarify the following: In start-up missions, it is not unusual for United Nations employees to typically undertake 12-hour working days and to work on weekends. Restricting or slowing down the amount of work of the consultants was not in the best interest of the Organization. Besides, the Secretary-General would like to point out that there are vast differences when undertaking a cost comparison of the United Nations work day and that of the proposal, as explained in detail in paragraphs 42 to 45 below.

I. Introduction (paras. 1-4)

9. The Secretary-General has no comments in regards to the introduction.

II. Comments on justification for the use of extraordinary measures (paras. 5-10)

10. Paragraph 8 of the OIOS report indicates that the Under-Secretary-General for Internal Oversight Services "expressed concerns", in a correspondence dated 23 November 2007 to the Secretary-General, "about allowing flexibility in the application of procedures". It should be noted that the use of the extraordinary measures was the subject of extensive discussions by members of the Fifth Committee during the review of the budget for UNAMID in November and December 2007. During those discussions, approximately 200 questions were raised and answered either verbally or in writing. About 50 of those questions related to the use of the extraordinary measures and to the sole-source contract. On 22 December 2007, the General Assembly approved a resolution for the financing of UNAMID, including a request for OIOS to audit the use of the extraordinary measures (resolution 62/232 A). It was therefore deemed appropriate to address the matter in a comprehensive manner. Furthermore, the Secretary-General would like to clarify that owing to the risks associated with the award of a contract on a sole-source basis under extraordinary measures, OIOS representatives were invited by the Procurement Division in two separate occasions (23 May and 15 June 2007) to provide OIOS advice on the risk that could be present and internal controls that should be considered in the procurement and administration of the contract. The OIOS representatives did not indicate in the course of those meetings that the sole-

source contract as signed could prove to be "damaging [to] the reputation of the United Nations", as OIOS states in paragraph 29 of the report.

III. Controls established to mitigate risks of loss, misuse and mismanagement of resources (paras. 11-12)

11. The Secretary General has no comments in regards to paragraphs 11 and 12.

IV. Comments on the effectiveness of the extraordinary measures (paras. 13-77)

A. Procurement (para. 13)

12. The Secretary-General has no comments in regards to paragraph 13.

1. Comments on inadequate planning of logistical requirements (paras. 14-20)

13. The Secretary-General would like to note that, despite all the challenges during the contract implementation, the contractor has provided the infrastructure for four super-camps, affording the mission the capability to accommodate more than 4,000 persons, both military and civilian. Without these camps, any new deployment in UNAMID would have been impossible.

14. In regards to the decision to enter into a sole-source contract, the Secretary-General considers that OIOS has not fully taken into account the precursor of events that led to the establishment of the sole-source contract and as a result has drawn inappropriate conclusions over the efficacy of the planning process. The genesis of the recommendation to pursue this modality of contract was the need to support the deployment of the heavy support package comprising 4,100 personnel in order to strengthen the African Union Mission in Sudan (AMIS). Although, the heavy support package had been anticipated for some time, it was only finally approved by a letter from the President of the Security Council on 17 April 2007. At that stage, it was anticipated that heavy support package units would start to deploy in about two months (by June 2007) and the Department of Field Support was under significant pressure to rapidly have in place appropriate support arrangements on the ground. Therefore, given the limited time available and the normal time required for a tender, award and mobilization of a contract of this magnitude, alternative methods to meet the operational requirements were judged to be necessary.

15. In regards to the notion that the Department of Field Support did not perform a cost-benefit analysis to justify the use of a multifunction logistics contract, the Secretary-General would like to note that in the absence of sufficiently qualified and available resources or the time to undertake logistic demands of the required magnitude, there was no viable option other than to seek resources under a multifunction service contract. Hence, it was considered that a cost-benefit analysis could not be conducted because there was no other available capacity for such a comparison to be carried out.

16. The Secretary-General would also like to note that the period in which the planning for the deployment and support of the heavy support package took place

was plagued by uncertainties and delays. The Government of the Sudan withheld approval of the provision of the heavy support package by the troop-contributing countries until July 2007, while some of the capabilities within the package were not provided by Member States. Hence, it was extremely difficult for the Department of Field Support to finalize a statement of requirements for heavy support package support. A draft statement of requirements was prepared by the Department by late April 2007. This was refined through discussions between the Department of Management, the Department of Field Support and the OIOS in order to identify and mitigate risks and through a field visit by the Departments of Field Support and Management to Darfur and was submitted in final form to the Procurement Division in mid-July 2007.

17. Given the prevailing uncertainties which surrounded this deployment, and the complexity of the requirement, the Secretary-General considers that the timescale is understandable and its preparation efforts are reasonable. The Secretary-General wishes to clarify that there was not sufficient information at hand in December 2006 to properly plan for and evaluate the cost-effectiveness of entering into a sole-source, multifunction logistics contract, nor does he consider that sufficient information existed in December 2006 to develop and issue a statement of work with sufficient detail that would enable the Procurement Division to commence a credible solicitation.

18. The contractor had been operating in Darfur since 2004. The company had constructed and was maintaining 34 camps for AMIS of the type required by UNAMID and therefore had personnel and assets on the ground and a well-functioning supply chain in Darfur suited to the logistic requirement of UNAMID. It was assessed that the contractor was the only company capable of mobilizing the necessary construction teams within 30 to 60 days, noting the expectations of the Security Council. Hence, the decision was taken to recommend a sole-source contract for support to the heavy support package. In reaching this decision it was assessed that the risk to the reputation of the Organization of failing to deploy the heavy support package units in a timely manner outweighed the risk of the sole-source approach as has, indeed, proved to be the case.

19. The deployment of the heavy support package was the second phase of a three-phase approach to strengthening peacekeeping in Darfur. Phase One, the light support package, comprised some equipment but was primarily made up of personnel to strengthen the management of the operation in Darfur. The heavy support package was designed to deliver critical enabling capacity to AMIS. The decision of the Security Council to establish UNAMID in late July 2007, before any heavy support package capability had deployed to Darfur, presented a further series of challenges to the Department of Peacekeeping Operations and the Department of Field Support, who were now required to undertake concurrently the following major tasks:

(a) Continue the generation and deployment of the heavy support package;

(b) Assume operational command authority over the light and heavy support packages by 31 December 2007;

(c) Assume authority from AMIS by 31 December 2007;

(d) Take over support of the already deployed 6,743 AMIS troops who were to become United Nations troops from 31 December 2007;

(e) Expand the peacekeeping mission to its full strength of 19,555 military, 3,772 police officers, 19 formed police units, each of 140 personnel, and an appropriate civilian component as rapidly as possible.

20. Based on the explanations provided in paragraphs 13-19 above, the Secretary-General's view is not that the Department of Field Support failed to adequately plan for the provision of the multifunction logistics services. As earlier stated, the Controller in his letter referred to above, requested that a concept be developed to respond to an emergency situation of this nature to prevent reoccurrence of exceptions to competitive bidding. The Controller's request to the Department of Field Support was to consider whether it could develop a "standing or standard resource requirement" which could be used as the basis for competitive bidding should the Organization be placed under similar time and information constraints for rapid deployments in the future.

2. Comments on delays in the preparation of a statement of work (paras. 21-23)

21. The Secretary-General has no comments with regards to paragraphs 21 through 23 other than those provided in the paragraphs above.

3. Comments on approval of the contract award to Pacific Architects and Engineers (para. 24)

22. The Secretary-General has no comments in regards to paragraph 24.

4. Comments on insufficient time for evaluation and review of the Pacific Architects and Engineers procurement case by the Headquarters Committee on Contracts (paras. 25-29)

23. The Secretary-General would like to reiterate that the reason for requesting an urgent consideration of the multifunction logistics case by the Headquarters Committee on Contracts was the fact that the then existing contract between the contractor and a Member State was due to expire the day after the presentation (31 August 2007). Therefore, had the contractor agreement with the United Nations not been confirmed, the contractor was at risk of losing its legal status in the Sudan and consequently would have had to demobilize. This course of action would have significantly increased the costs to the United Nations and lead time in mobilizing other construction capabilities in Darfur. It should be noted that the Headquarters Committee on Contracts was fully informed about the contract in detail and it was also explained to them that prices would be further reduced, following final negotiations. Indeed, as stated above, the additional week of negotiations resulted in material savings to the Organization of an additional $41 million. The Headquarters Committee on Contracts was duly informed of the final results of the negotiations.

24. Moreover, a review of the Headquarters Committee on Contracts case minutes showed the extensive examination of the issues raised by the Committee. The Committee flagged the exceptional nature of the case in providing the decision maker with two recommendations on how to proceed. As such, the Committee discharged its functions in providing its views on a difficult case which clearly raised significant operational issues for the Organization in terms of meeting the Security Council mandate.

25. In relation to the possibility that the vendor's selection without bidding, as permitted under the extraordinary measures, could attract negative publicity damaging the reputation of the United Nations, the Secretary-General would like to emphasize that, considering the risks associated with awarding a contract of this magnitude and complexity on a sole-source basis, the Department of Management requested the advice and guidance of OIOS. OIOS representatives were invited on two separate occasions (23 May and 15 June 2007), to seek the advice of OIOS on the risks that could be present and internal controls that should be considered in the procurement process and administration of the contract. The OIOS representatives did not indicate, during these meetings, that the contract could prove to be damaging to "the reputation of the United Nations", as it was later asserted in the report. It should also be recognized that a failure to implement the Security Council mandate owing to the non-provision of facilities would have resulted in even worse reputational damage as well as substantive damage to the Organization and its objectives.

5. Comments on inadequate bid evaluation (paras. 30-33)

26. The Secretary-General would like to note that extensive negotiations were carried out by a team comprised of members from the Department of Field Support, the Office of Legal Affairs and the Department of Management, whereby the original bid proposal of $790 million was eventually reduced by over half a billion dollars. While indeed some of the vendor assumptions appeared to be relatively high, the substantial price reduction was a result of an analysis of more than 13,000 line items which constituted the vendor proposal.

27. In regards to the absence of benchmarking, the Secretary-General would like to clarify that there were many examples of price comparisons demonstrated within the contract files. As stated above, there were more than 13,000 line items within the proposal and, while a comparison for all line items would have been more than challenging, the Procurement Division did use many means at its disposal to carry out benchmarking, such as:

(a) Existing systems contracts — despite the fact that the delivery terms for systems contracts are either delivered duty unpaid (DDU) Brindisi or free carrier Brindisi, the vendor proposal was on-site delivery. Furthermore, in many instances, the systems contracts did not have the capacity to satisfy the demand for the heavy support package contract;

(b) Data from a Member State and the African Union was used to provide a benchmark despite the fact that the Member State's specifications differed from United Nations standards;

(c) Other mission contracts;

(d) The labour laws of the Sudan.

28. The Secretary-General wishes to clarify that the Organization always reserves the right to utilize systems contracts within the terms of a heavy support package contract, but as stated above, the delivery capacity of systems contracts has to be taken into consideration, which in this case did not exist. Furthermore, there are always risks associated when ordering from a third party. These risks have to be balanced against the possibilities of not achieving the ultimate goals of the project owing to non-delivery of goods from a third-party supplier.

6. Comments on weakness in the management of task orders (paras. 34-41)

29. In the OIOS report, reference is made to administrative fees totalling $4.3 million for which the United Nations did not obtain value for the costs incurred. The Secretary-General would like to state that the administrative fees of $4.3 million have been recovered.

30. The OIOS report also refers to the administrative fees for the task orders raised for El Obeid for the period between 1 April and 14 July 2008. The cost for services in El Obeid at $313,416 have all been recovered either directly or through the process of negotiations.

31. In reference to the statement in the OIOS report relating to the procurement of equipment at prices higher than those in the existing systems contracts, resulting in additional costs of $7 million to the United Nations, the Secretary-General would like to clarify that the only disproportionate cost that has been identified is the amount of $3 million which refers to purchases of generators. It must be noted that during the time period in question, the existing supplier for the system contract suffered from force majeure circumstances related to severe natural conditions and, therefore, was unable to fulfil its contractual obligations. Hence the need to procure generators, as a mission-critical item, from elsewhere, on an exigency basis in line with the "worst case scenario" mentioned above.

32. It must also be added that in reference to the 500-kVA generators, it is correct to assume that if purchased through the systems contract, this cost would have been less, but this would have been a delivery duty unpaid Brindisi and the vendor proposal was for an on-site delivery. Additionally, the lead time for the systems contracts was protracted and any delay faced with regards to generators ordered from the systems contract would have had a detrimental effect on the overall deployment timelines mandated by the Security Council. Furthermore, there was a need to mitigate the risk element attached to ordering items from a third party and integrating into another contractor's operation. Hence, the solution chosen took into account, among others, the unforeseen events faced by the supplier, the prices and the most time-efficient delivery methods.

7. Comments on overhead and administrative charges not commensurate with the adjusted contract value (paras. 42-43)

33. The Secretary-General has no comments in regards to paragraphs 42 and 43.

8. Comments on charges for catering and management services not performed

34. The Secretary-General would like to note that at the time of signing the task orders for catering, UNAMID had in its possession various catering equipment. This catering equipment was to be used in the provision of catering services from 1 April 2008, but was in various states of disrepair. During the mobilization period, which started at the date on which task orders were issued, the vendor was required to assess and repair the equipment for use under the contract which commenced on 1 April 2008. The charging of fees for catering equipment maintenance was therefore justified. However, in accordance with the relevant change and task orders, an adjustment was made to the charges for management services and the maintenance of catering equipment, reducing the net amount payable by the United Nations for these services by $100,758. Much of this reduction was related to the

lack of mobilization, management and equipment operation and maintenance services delivered during January 2008.

35. Paragraph 46 of the OIOS report found that the contractor had not provided the services of cleaning, laundry, pest control, ground maintenance and garbage/refuse disposal services. However, task orders included charges of $475,926 for management services for six months from February 2008. The Secretary-General would like to clarify that in accordance with the terms of the contract, if the mission chose to use one of the range of services offered, the full management fee would be payable. As UNAMID chose to use the catering services, the full cost was incurred. However, as part of the overall package negotiated with the contractor on the management fees in September and October 2008, the Secretary-General would like to inform that this amount was included in the cost reductions of $16 million referred to in paragraph 6 above.

9. Comments on delays in establishing the contract management function (paras. 48-50)

36. In reference to the delays in having a fully operational contract management function established, the Secretary-General would like to state that the UNAMID budget was not approved by the General Assembly until 22 December 2007. While timely recruitment processes were undertaken by the mission, the recruitment effort was hampered in a number of ways: short-listed staff declining to be interviewed, selected staff declining appointment and appointed staff facing extreme delays in travelling to the mission. It was also expected that the letter of assist with a Member State for provision of contract management services would have been concluded in a timely manner and that the mission would have benefited from this support.

37. In light of the difficulty the Organization faced to attract, recruit and retain qualified staff, it is understandable that as of April 2008, the mission had not established a sufficiently staffed and technically qualified in-house capacity to manage the multifunction logistics contract. These outsourcing arrangements have now been finalized.

38. The Secretary-General would like also to clarify two major setbacks that influenced this delay: As noted by OIOS in paragraph 52 of the report, before the letter of assist was considered, the Procurement Division undertook two procurement exercises. Both exercises were ultimately unsuccessful — the first one owing to a lack of any technically compliant proposals, the second owing to a conflict of interest with the sole technically compliant proposal.

39. It should also be noted that it was not appropriate to label the letter of assist process as "non-competitive bidding" as if it were a competitive process. All letters of assist are by their very nature non-competitive arrangements between the parties to the arrangements. Yet it is prudent to note that the Procurement Division did conduct a cost comparison of the financial proposal of the Government with which the letter of assist was established against the commercial prices obtained from the failed commercial exercises.

40. Furthermore, the letter of assist had yet to be executed because of protracted negotiations with the involved Member State on complex issues. Among the difficult negotiations, for example, was the objection of the Member State initially to indemnify the Organization for acts, omissions or negligence on its part. The

Member State relented on this issue, but only after its Parliament approved entering into the letter of assist on a provisional basis. The United Nations acceptable levels of insurance coverage by the Member State were also problematic. Almost all of the issues ultimately required the advice and approval of the Controller, the Office of Legal Affairs and the Department of Management. This inevitably extended the time of the negotiations.

10. Comment on the issuance of a letter of assist exceeding the authorized amount and contract renewal period (paras. 51-54)

41. The Secretary-General would like to clarify that the letter of assist was issued for one year with an option to extend up to one year as approved by the Headquarters Committee on Contracts. The period mentioned in the OIOS report was both a consideration and a preference for both the mission and the Member State involved, and it was the basis for the draft letter of assist that was prepared. This however, was short-lived and the letter of assist for one year with a one-year extension option was pursued. It must be mentioned that OIOS based its observations on the draft.

11. Comments on the excessive cost of contract management services (paras. 55-57)

42. In paragraphs 55-57, the OIOS report questions the letter of assist with respect to the costs used which were based on an hourly rate for a 12-hour working day on a 26-day month for each consultant. This is contrasted with the United Nations where the working hours are eight hours per day, on a 22-day month basis. The report continues to provide estimates of potential savings that would have been achieved had the contract been based on United Nations working hours. In this respect, the Secretary-General would like to state that as the primary objective of the Organization was to enable UNAMID to implement its mandate as soon as possible, restricting or slowing down the amount of work of the consultants would have represented savings that would not have been in the best interest of the Organization. The Secretary-General strongly believes that reducing the quantum of the consultants' work to the suggested levels is not in accordance with normally accepted commercial practice, nor would it have been within the operational interest of the Organization.

43. More specifically, the Secretary-General would like to note that there are vast differences when undertaking a cost comparison of the United Nations work day/month and that of the letter of assist personnel. The Director/Chief of Mission Support usually defines the number of working hours and work days in a month. In a start-up mission, it is not unusual for United Nations employees to typically undertake 12-hour days and be required to work on weekends. The United Nations, however, only recognizes 21.75 days (and 7.5 hours per day) of productivity for compensation to its staff. The letter of assist proposal is reflective of the fact that its staff will work 6 days out of every 7 days up to 12 hours per day. The characterization of what constitutes a "normal" work day in the context of generating savings is misaligned with the objective of the mission to build capacity in the **shortest period of time**.

44. Furthermore, it must be considered, that the consultant's work month is based on the provision of "consultant days" and not "consultants". The party retained under the letter of assist is obliged to provide 26 days of consultancy productivity in

every month (for each position) irrespective of sick leave, annual leave, travel days or official holidays of its individual consultants. In contrast, the United Nations continues to pay its staff during these "down" periods, and is not required to provide alternate coverage during these absences. Accordingly, the comparison made is an "apples to oranges" one and the savings alleged are not substantive.

45. In addition, it should be noted that cost-comparisons were undertaken between the selected proposal and the proposals the United Nations had received for Consultant Contract Management services from the competitive bidding exercise. It was found that the prices included in both proposals were comparable. Based on the cost-comparison, the Secretariat managed to reduce the costs associated with certain types of personnel resulting in savings of €234,705. Perhaps more significantly, on average, the core personnel costs of the party whose services were retained were over 18 per cent less than those of the only comparable commercial bid received in two bidding exercises that were carried out during the process of contracting these services.

46. Finally, the Secretary-General would like to state that as of December 2008, the finalized letter of assist had been signed.

12. Comments on the extension of existing systems contracts (para. 58)

47. The Secretary-General has no comments in regards to paragraph 58.

13. Comments on the lack of in-house expertise to arrange multifunction service contracts (para. 59)

48. The Secretary-General would like to note that the United Nations generally conducts procurement through competitive bidding for individual requirements as they arise. The Organization does not have expertise for such detailed cost analysis involving military assets, as it usually evaluates prices based on market responses given as offers in response to specific requirements set forth in tender documents. For UNAMID, it was deemed necessary to utilize the expertise of the Maintenance and Supply Agency of the North Atlantic Treaty Organization to conduct such detailed cost analysis to protect the financial interest of the Organization.

49. Nevertheless, the Department of Management will seek additional resources from the General Assembly to build its own capacity to manage procurement of multifunction logistics service.

14. Comments on procurement measures not used (para. 60)

50. The Secretary-General has no comments in regards to paragraph 60.

B. Human resources management (para. 61)

51. The Secretary-General shares the view of OIOS regarding the need for the United Nations to reassess its strategy in attracting both external and internal candidates to take up peacekeeping positions in the field and reiterates that every effort is being made to this effect. The Secretariat has already taken a number of initiatives to better manage the recruitment and staffing process. The Secretary-General's proposals for human resources management reform set out in his report entitled "Investing in people" (A/61/255 and Add.1 and Corr.1) sought to address

inadequacies in the conditions of service of staff serving in the field. At the conclusion of the main part of its sixty-third session, the General Assembly took a number of decisions on the Secretary-General's human resources reform proposals relating to the streamlining of contractual arrangements and harmonization of conditions of service of staff in the field which will impact on staff in peacekeeping operations and special political missions. As reflected in resolution 63/250, the General Assembly approved the new contractual arrangements, comprising three types of appointments (temporary, fixed-term and continuing) under one set of staff rules, effective 1 July 2009. While full harmonization with the United Nations system agencies, funds and programmes has not yet been achieved, the conditions of service of mission staff have been aligned with the common system benefits of the Secretariat. The General Assembly's decisions represent recognition of staff in the field as part of the regular Secretariat, with the same common system conditions of service and contractual arrangements. In future sessions, the General Assembly may revisit those proposals of the Secretary-General which were not approved. The Secretary-General maintains that the adoption of these proposals is essential to the Organization's strategy in attracting both external and internal candidates.

52. One of the tools for addressing the timely filling of vacancies is the human resources action plan that has been introduced to all peacekeeping missions effective 1 July 2008. The human resources action plan is a shared commitment by the Under-Secretary-General for Peacekeeping Operations and the Special Representative of the Secretary-General and Head of Mission to recruit and retain high-quality civilian staff for the field. Realistic targets to reduce timelines in the selection process, decrease the high vacancy and turnover rates and ensure proper recording of recruitment timelines have been established. The Department of Field Support has committed itself to providing missions with the necessary support to achieve these targets. To facilitate the implementation of the action plans, missions have been granted the authority and responsibility to implement the automated selection process (a system which prior to the implementation of the human resources action plan was limited to Headquarters) at the mission level through the automated vacancy management module, which will enable them to record their actions in the selection process in a timely manner. Missions have also been delegated authority and responsibility for staffing tables and post management to facilitate proper workforce and succession planning. A vacancy management module has been introduced in the Nucleus system to record local staff recruitment and facilitate the timely selection by field missions and to monitor timelines for the selection of locally recruited staff members. The implementation of the human resources action plan is expected to decrease vacancy and turnover rates, thereby contributing to retention and development of field staff through career development and succession planning and to prepare staff members for future development through training. This will be based on identifying and developing a pool of talented staff to ensure leadership continuity for all key positions in the missions.

53. Succession planning is linked with forecasting the critical staffing needs for all peace operations as well as assigning staff so that they are in the right position at the right time and can actively engage in the fulfilment of the missions' mandates. In consultation with the Department of Peacekeeping Operations Integrated Training Service and the Office of Human Resources Management Staff Development Service, the Department of Field Support will be identifying all staff development activities and professional training available, inclusive of certifications that they

would require to strengthen the ties between succession planning, performance management and career mobility.

54. The Department of Field Support continues its outreach initiatives in order to attract qualified candidates for peace operations through a variety of conferences and job fairs, as well as posted advertisements on targeted websites. Furthermore, the Department regularly circulates lists of critical vacancies to approximately 40 organizations worldwide, which help in identifying candidates for hard-to-fill positions or positions requiring specific skills. Positive outcomes have already been achieved as a result of this activity. In the first quarter of 2008, the Recruitment, Outreach and Career Development Section institutionalized its outreach functions by creating a structured full-time outreach team within its Recruitment and Outreach Unit.

1. Comments on the limited effect of extraordinary measures on the timeliness of staff deployment (paras. 62-65)

55. The Secretary-General would like to state that some of the statistics used to arrive at these conclusions are at variance with those of the Secretariat. The OIOS report stated that as of 31 March 2008, 13 of the 33 key administrative positions at the P-5 level or higher and 23 of the 39 key substantive positions had not been filled. The weekly update from the UNAMID recruitment tiger team dated 27 March 2008 indicated that the mission support component had 33 available posts and 20 staff members (61 per cent) were on board. The substantive offices had 39 available posts and 15 (38 per cent) were encumbered. Therefore, out of 72 key positions, a total of 35 (49 per cent) had been filled as of 31 March 2008. As of 12 November 2008, 50 (69 per cent) critical posts at the P-5 level or higher are encumbered, 26 from the support component and 24 from the substantive offices.

56. It should be noted that the mission support component currently has 100 per cent incumbency for the D-1 level and above, including the temporary duty assignment for the position of Principal Administrative Officer in Khartoum. The substantive component's incumbency rate for the D-1 and above level is 67 per cent. The recruitment tiger team is working closely with the recently assigned Chief of Staff to expedite the recruitment in the substantive component with a focus on filling vacant P-5-level positions.

57. In reference to the use of the extraordinary measure related to the temporary duty assignment in UNAMID, the Secretary-General would like to clarify that the Department of Field Support consulted with UNAMID and concluded that it was in the mission's best interest to continue the extraordinary measure of placing staff members on temporary duty assignment beyond 90 days. As a control measure, the Department required UNAMID to specify the durations of the temporary duty assignment, not to exceed 12 months. Therefore, the Department and the mission continued to exercise the extraordinary measure of allowing civilian personnel to deploy on temporary duty assignment beyond 90 days after 31 March 2008.

58. Concerning the issue of hiring replacements for the releasing missions, it should be noted that given that the duration of the temporary duty assignment was not specified at the time of deployment, such a measure would have been impracticable. It is understood that temporary duty assignment may be extended beyond 90 days; however, it is not automatic that such extensions must always be for one year. In this connection, experience has shown that attempts to fill vacancies

for a six-month period are extremely difficult, as very few candidates are willing to deploy to a field mission knowing that their appointment would expire at the end of six months.

2. Comments on limited experience of staff on temporary duty (paras. 66-68)

59. Paragraph 66 of the OIOS report stated that "the Department of Field Support did not set criteria on experience and expertise required for staff selected for temporary duty". The Secretary-General states that criteria had been established on experience and expertise required for staff selected on temporary duty assignment, in the Department's correspondence, dated 28 August 2008, addressed to all missions, to ensure that temporary duty assignments were being utilized in a uniform and consistent manner. This correspondence clearly articulated the purpose, clarified procedures to be followed and the control and reporting mechanisms ensuring that temporary duty assignments were utilized to meet their stated purpose. The purpose of the temporary duty assignment is to provide the receiving mission with highly experienced and qualified staff with unique expertise to meet urgent support requirements not only at the start-up stage, but also during expansion, liquidation or other limited periods. Staff deployed on temporary duty assignment must be able to "hit the ground running" and be immediately and positively productive in the receiving mission with no advanced notice or training.

3. Comments on the delayed reference checks of personnel absorbed from the African Union Mission in Sudan (para. 69)

60. The Secretary-General would like to reiterate that although reference checks were expeditiously initiated, UNAMID experienced difficulty in getting timely responses from employers and educational establishments. Therefore, in order to provide much-needed staff support, UNAMID decided to proceed with the completion of recruitment, while continuing to conduct reference checks. The mission forwarded a list of former AMIS staff for whom no reference check had been conducted to the Reference Check Unit of the United Nations Logistics Base in Brindisi with a view to prioritizing these reference checks.

4. Comments on accommodation-provided mission subsistence allowance and new mission subsistence allowance rate for Darfur (paras. 70-71)

61. The Secretary-General has no comments on paragraphs 70 and 71.

5. Comments on additional travel days for occasional recuperation breaks (para. 72)

62. At the conclusion of the main part of its sixty-third session, the General Assembly also approved the replacement of the occasional recuperation break with a rest and recuperation scheme that would include travel time appropriate to the location but not involve any payment of travel expenses, effective 1 January 2009. All field missions have been informed accordingly, and the administrative instruction on occasional recuperation break (ST/AI/2000/21) is being revised to reflect the changes to the rest and recuperation scheme.

6. Comments on inadequate staffing of the tiger team (paras. 73-74)

63. As regards the statements in the OIOS report that the Department of Field Support introduced the use of ad hoc "tiger teams" to augment the capacity of missions in recruiting international staff and that the number of tiger team staff responsible for recruiting international staff had been constantly reduced in UNAMID, in circumstances in which there was a continued need to augment the Operation's recruitment efforts until the vacancy rate decreased to an acceptable level, the Secretary-General would like to inform that in an effort to further support the tiger team in meeting the recruitment targets in line with the approved budget, the Department of Field Support temporarily deployed seven additional human resources personnel to UNAMID in June 2008. Currently, the recruitment tiger team has the strength of 19 members, of which 10 are in the International Recruitment Cell and 9 in the National Cell. One additional Human Resources Officer at the P-3 level is in the process of being deployed to Darfur to provide long-term assistance to the recruitment tiger team.

C. Extraordinary measures for other areas (paras. 75-77)

64. The Secretary-General has no comments on paragraphs 75 to 77.

Comments on the recommendations

65. *Recommendation 1 (para. 78)*: In its recommendation 1, OIOS stated: **The Secretary-General should exercise caution when authorizing flexibility measures in the application of administrative rules by ensuring that sufficient governance mechanisms are in place to properly identify and mitigate financial and reputation risks to the United Nations.**

66. The Secretary-General would like to emphasize that caution is always exercised when authorizing flexibility measures in the application of administrative rules. **Thus, it is unclear what action OIOS is recommending to be implemented by the Secretary-General.**

67. *Recommendation 2 (para. 80)*: In its recommendation 2, OIOS stated: **The Department of Management should ensure that, when flexibility measures in the application of administrative rules are exceptionally introduced to expedite the deployment of new missions: (a) a formal risk assessment is performed to analyse the circumstances that warrant the use of extraordinary measures and to identify the specific administrative measures actually needed to address such circumstances; (b) clear guidelines are communicated to all concerned offices and monitoring mechanisms are established so that risks associated with the use of extraordinary measures are properly identified and monitored; and (c) measurable expected benefits are clearly defined and communicated to all concerned offices to facilitate the evaluation of whether targets set for the application of extraordinary measures are met.**

68. The Secretary-General accepts recommendation 2 (a) but notes that a formal risk-assessment mechanism will only be possible once the enterprise risk management system is fully implemented. However, as the Organization seeks to

implement an enterprise risk management system, we will be conducting more thorough risk assessments of projects and proposals of this magnitude.

69. The Secretary-General, however, does not accept recommendations 2 (b) and (c) and notes that a thorough review of the proposed extraordinary measures was performed prior to a recommendation for their approval. The risk analysis as developed by OIOS is seen as a continuous exercise/process, for which the Procurement Division and other stakeholders are engaged, on a regular basis, for any significant acquisition projects driven by high costs or complexity or an abbreviated timeline. In addition, the source selection plan developed for any acquisition project and described in the Procurement Manual is a vehicle to address business risk and mitigation measures which may adversely affect the project and the organizational mandate. Furthermore, of the 18 exceptional measures approved by the Secretary-General, only 7 applied to procurement and of those, only 2 were used: the Procurement Division only extended one system contract to meet the mission requirements at "start up". The decision to enter into a sole-source contract has been documented in paragraphs 13 and 14 above.

70. *Recommendation 3 (para. 82)*: In its recommendation 3, OIOS stated: **The Department of Field Support, in coordination with the Department of Management, should address accountability for the failure to adequately plan for the provision of the UNAMID multifunction logistics services and the decision to enter into a sole-source contract with Pacific Architects and Engineers.**

71. The Secretary-General does not accept this recommendation. Planning for the provision of the services was undertaken by the Department of Field Support, which properly planned and evaluated the decision to enter into a complex multifunction service contract. The decision to enter into a sole-source contract was processed according to established procedures and was extensively consulted within the Secretariat. The judgement that the granting of a sole-source contract was in the best interest of the Organization falls within the authority of the Secretariat and it is not the role of an internal audit service to substitute its business judgement for that of an auditee.

72. *Recommendation 4 (para. 84)*: In its recommendation 4, OIOS stated: **The Department of Field Support should properly plan and evaluate any decision to enter into complex multifunction service contracts by conducting a comprehensive cost-benefit analysis to ensure that the United Nations obtains the best value for money when entering into such contracts.**

73. The Secretary-General does not accept this recommendation. Please refer to comments stated in paragraphs 16 and 17 above. In circumstances where the availability of alternative options is non-existent and lead times are short, the performance of a comprehensive cost-benefit analysis is neither practicable nor valuable.

74. *Recommendation 5 (para. 86)*: In its recommendation 5, OIOS stated: **The Department of Management should address accountability for the weaknesses in the procurement of the multifunction logistics services and the administration of the Pacific Architects and Engineers contract, which have resulted in substantial actual and potential losses.**

75. The Secretary-General **does not accept the recommendation** and wishes to reiterate that the Procurement Division has: (a) reduced significantly the overall cost of the contract through negotiations (refer to responses to recommendation 7 below); (b) conducted benchmarking to the extent possible for key elements of the contract; (c) reviewed 13,000 line items of the contract proposal to ensure reasonableness of prices; and (d) requested guidance and advice from OIOS on two different occasions regarding the risks involved in this contractual agreement and none was provided. Procurement of the contract has enabled the mission to meet needs arising from the Security Council mandate to deploy in the mission area.

76. *Recommendation 6 (para. 88)*: In its recommendation 6, OIOS stated: **The Department of Management should make every effort to recover the excessive charges presented by Pacific Architects and Engineers for payment and avoid losses in the future.**

77. The Department of Management has already fully addressed the issue of any excess charges and notes that the Procurement Division has: (a) reduced the overall proposal by over half a billion dollars; (b) recovered excess charges from the contractor in the form of $16 million reduction in administrative fees; (c) removed the contractor's management reserve on all subcontracted services; and (d) reduced the contractor's profit.

78. *Recommendation 7 (para. 90)*: In its recommendation 7, OIOS stated: **The Department of Management should develop in-house expertise on arranging multifunction logistics services to ensure that the procurement of such services in the future is handled effectively.**

79. The Secretary-General accepts the recommendation to increase its capacity for procurement of multifunctional logistics services and will seek additional resources from the General Assembly. Notwithstanding, it must be emphasized that the extraordinary measures are in full compliance with the Financial Regulations and Rules of the United Nations and OIOS did not identify nor report any specific breach of the Financial Regulations or the Rules.

80. *Recommendation 8 (para. 92)*: In its recommendation 8, OIOS stated: **The Department of Field Support should ensure that UNAMID's in-house contract management capacity is built within a reasonable time frame in order to develop the expertise of the United Nations on the management of complex, multifunction logistics contracts.**

81. The Secretary-General accepts the recommendation, stating that as of 31 October 2008, the Operation's in-house contract management capacity had increased to 16 staff. Please refer to comments in paragraph 36 of the present note.

82. *Recommendation 9 (para. 94)*: In its recommendation 9, OIOS stated: **The Department of Management should amend the draft letter of assist with the Government of Spain for the provision of contract management services in UNAMID to conform to the normal UNAMID working hours and achieve substantial savings.**

83. The Secretary-General does not accept the recommendation. Please refer to paragraphs 42-45 of the present note.

84. *Recommendation 10 (para. 96)*: In its recommendation 10, OIOS stated: **The Department of Field Support should define the criteria for required experience**

to guide the selection of qualified personnel for temporary duty assignment and timelines within which to deploy them.

85. The Secretary-General has implemented the recommendation. The Department of Field Support has circulated a facsimile dated 28 August 2008 to all missions on the purpose, procedures and control mechanisms for temporary duty assignment. It should be noted that in paragraph 14 of resolution 63/250, the General Assembly requested the Secretary-General to discontinue the practice of assigning staff from Headquarters to missions on a travel status for a period of more than three months.

86. *Recommendation 11 (para. 98)*: In its recommendation 11, OIOS stated: **The Department of Field Support should ensure that reference checks are performed and completed on a priority basis for all AMIS staff absorbed by UNAMID.**

87. The Secretary-General accepts the recommendation. Please refer to the comments in paragraph 60 of the present note.

88. *Recommendation 12 (para. 100)*: In its recommendation 12, OIOS stated: **The Department of Field Support should ensure that the tiger team established to facilitate the recruitment of staff for UNAMID is strengthened so that efforts to fill vacancies in the mission are sustained until such time as the staffing has reached an acceptable level.**

89. The Secretary-General accepts the recommendation (refer to para. 63 of the present note). Furthermore, the Secretary-General considers that the significant increase in the number of tiger team members will expedite the urgent requirement to fill vacant positions and will strengthen the Operation's recruitment efforts.

Comments on the annex

90. As regards to the annex to the OIOS report, which summarizes the estimated financial implications of deficiencies in the sole-source contract in the amount of $12,337,508, the Secretary-General would like to state the following:

(a) In relation to the figures relative to the item "Excessive equipment costs" for $7 million, only $3 million can be identified in the report and they refer to purchases of generators. It must be noted that during the time period in question, the existing systems contract supplier suffered from force majeure circumstances related to severe natural conditions and, therefore, was unable to fulfil its contractual obligations. Hence the need to procure generators, as a mission-critical item, from elsewhere on an exigency basis in line with the "worst case scenario" referred to in the previous paragraphs;

(b) In relation to the "Administrative fees charged to UNAMID when there was no actual construction work" for $4.3 million; the "Charges for catering ($248,166) and management ($475,926) services not performed", totalling $724,092; and the costs for "Task orders services for El Obeid that were not needed" at $313,416, all of them, with the exception of charges for catering of $248,166, which was reduced by $100,758, have been recovered either directly or through the process of negotiation;

(c) See the table below for a summary of the financial implications.

Table
Summary of estimated financial implications of deficiencies noted

Description	*Amount per OIOS report (United States dollars)*	*Per Secretariat*	*Paragraph No*
Pacific Architects and Engineers			
Excessive equipment costs	7 000 000	[a]	31
Administrative fees charged to UNAMID when there was no actual construction work	4 300 000	—	29
Charges for catering ($248,166) and management ($475,926) services not performed	724 092	147 408	34, 35
Task orders for services for El Obeid that were not needed	313 416	—	30
Subtotal	**12 337 508**		
Ingeniería de Sistemas para la Defensa de España			
Inflated contract management fees	6 200 000	[b]	8
Subtotal	**6 200 000**		
Total	**18 537 508**		

[a] The Procurement Division has been able to identify costs in excess of $3 million which have been justified as per paragraph 31.
[b] This figure has been contested owing to a different interpretation regarding the nature of the contract by OIOS and the Department of Field Support.